

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF IDAHO**

**IN THE MATTER OF:**

**AMENDMENT TO THE PLAN FOR  
THE RANDOM SELECTION OF  
GRAND AND PETIT JURORS**

**GENERAL ORDER #294**

The Amendment to the Plan for the Random Selection of Grand and Petit Jurors (Jury Selection Plan) of the United States District Court for the District of Idaho as set forth in the attached and made a part of this Order, having been approved by the Judicial Council on October 24, 2012, it is hereby

**ORDERED**

that the Jury Selection Plan as so amended and approved is adopted *Nunc Pro Tunc* to January 28, 2013 and placed in operation in the United States District Court for the District of Idaho and shall be effective throughout the district until otherwise modified as provided by law.

IT IS ALSO HEREBY ORDERED that the Clerk of the court may make ministerial changes to the Jury Selection Plan without revision of this General Order.

DATED: 25<sup>th</sup> day of March, 2015.



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B. Lynn Winmill  
Chief Judge  
United States District Court

**UNITED STATES DISTRICT COURT  
DISTRICT OF IDAHO**

IN THE MATTER OF:  
PLAN FOR THE RANDOM SELECTION  
OF GRAND AND PETIT JURORS

Pursuant to the Jury Selection and Service Act of 1968, as amended (28 U.S.C. § 1861 et seq.) the following amended Jury Plan is hereby adopted by this Court subject to the approval of the reviewing panel for the 9th Circuit Court of Appeals, and to such rules and regulations as may be adopted by the Judicial Conference of the United States. When approved, this Amended Plan will supersede the Jury Plan now in effect in the District of Idaho, including General Order 144, 152, 164, 184, 196 and other orders of the Court.

A. APPLICABILITY OF PLAN

The District of Idaho is divided into divisions for jury selection purposes, pursuant to Section 1869 (e) of the Act, as follows:

Southern Division, consisting of the counties of:

Ada	Elmore	Payette
Adams	Gem	Twin Falls
Blaine	Gooding	Valley
Boise	Jerome	Washington
Camas	Lincoln	
Canyon	Owyhee	

Northern Division, consisting of the counties of:

Benewah	Idaho	Nez Perce
Bonner	Kootenai	Shoshone
Boundary	Latah	
Clearwater	Lewis	

Eastern Division, consisting of the counties of:

Bannock	Cassia	Lemhi
Bear Lake	Clark	Madison
Bingham	Custer	Minidoka
Bonneville	Franklin	Oneida
Butte	Fremont	Power
Caribou	Jefferson	Teton

The provisions of this Plan shall apply to all the counties within each of these divisions.

B. DECLARATION OF POLICY

It is the policy of this Court that all litigants in the Court, entitled to trial by jury, shall have the right to petit jurors selected at random from a fair cross section of the community in the division where the Court convenes and that all qualified citizens who reside in the district and are not exempt or disqualified, shall have an obligation to serve as jurors when summoned for that purpose.

C. DISCRIMINATION PROHIBITED

No citizen shall be excluded from service as a grand or petit juror in this Court on account of race, color, religion, sex, national origin, economic status, or physical handicap.

D. MANAGEMENT OF THE PLAN

This Plan shall be managed by the Clerk of the Court under the supervision and control of the Chief Judge or such other judge as may be designated to perform those duties. In this plan, "Clerk" and "Clerk of the Court" shall mean the Clerk of the District Court of the United States, any authorized deputy clerk, and any other person authorized by the Court to assist the Clerk in the performance of functions under this chapter. (28 U.S.C. 1869(a), as amended)

The Court finds that electronic data processing methods can be advantageously used for managing this plan. Therefore, a properly programmed electronic data processing system, or a combination system employing both manual and electronic machine methods, may be used to select master wheel names, select names of persons to be sent questionnaires, select names of persons to be summoned, and to perform other clerical and record keeping functions as may be prescribed by the Court.

In the event of computer malfunction, or any overt or obvious deviation from this Plan caused by automation, the Clerk, with the approval of the Court, shall manually proceed from the last step correctly implemented.

E. JURY SELECTION SOURCES

The Court finds that the source from which the names of petit and grand jurors shall be selected at random shall be the merged lists of general election voter registration, and licensed drivers after the elimination of known duplicates from all the counties within the relevant division and does further find that such lists, as described above, represent a fair cross section of the community within the district.

Accordingly, names of grand and petit jurors serving in this Court shall be selected by randomized procedures from the merged lists of licensed drivers and registered voters. The names of registered voters will be obtained from the general election as maintained in the books, lists, or automated voter registration systems of each county, as being the correct number by the Secretary

of State. The names of licensed drivers will be obtained from the lists or automated systems from the Department of Motor Vehicles.

This Plan's reference to random selection shall mean that in any selection procedure all names shall be chosen by a purely random method. This randomized selection procedure which is described in the next section insures (a) that the names chosen will represent all segments of the source file from which drawn, (b) that the mathematical odds of any single name being picked are substantially equalized, and (c) that the possibility of human discretion or choice affecting the selection of any individuals name is eliminated.

F. INITIAL SELECTION OF NAMES FOR THE MASTER JURY WHEEL

The Judges of this Court find that the initial selection of persons to be considered for service as grand and petit jurors from the merged lists of voters, and licensed drivers, after the elimination of known duplicates, shall be made at random in such a total number as may be deemed sufficient for a two (2) year period. The initial selection of persons for grand and petit jury service shall be completed no later than March 1<sup>st</sup> of every odd numbered year.

In creating the master jury wheel, the number of names drawn from each county shall be substantially in the same proportion to the total number drawn from all counties within the division, as the number of names on the voter registration lists for all counties within the division. While the Court is merging licensed drivers and registered voters in creating the master jury wheel, for the purposes of meeting the proportional representation from each county required by 28 U.S.C. § 1863 (b)(3), the number of registered voters will be obtained from the automated voter registration system maintained by the Secretary of State. For example, if there are exactly 180,000 names on the voter registration lists of all counties within the division and there are 36,000 names on county "A's" list, (twenty percent of the total) then the number of county "A's" names initially selected should be substantially twenty percent of the total number selected from all counties within the division. However, the selection of names from the master jury wheel for the purpose of qualification and summons (one-step) will be purely random.

For the purpose of calculating the total number of registered voters in the respective divisions within the District, the Clerk Designee(s) will add together the total obtained from each county, as provided by the Secretary of State. The number taken as the total for each county may be based, at the Clerk's option, upon either a manual or a mechanized count of the names on the county's list or upon such total number as is provided by the Secretary of State.

After first determining the total number of names needed for the master jury wheel and then the proportionate share of names to be drawn from the source lists for each particular county, the Clerk shall proceed either manually or through a combination of manual and computer methods to make the initial selection of names from the source list of each county.

The sequence in which voter lists from various counties are to be obtained for the purpose of selecting names will, at the option of the Clerk, be any administratively convenient order,

such as the chronological order in which the lists were obtained, or in alphabetical sequence by county name, or in a simple randomized sequence.

#### G. METHOD AND MANNER OF RANDOM SELECTION

At the Clerk's option, and after consultation with the Court, the selection of names from complete source list databases in electronic media for the master jury wheel may be accomplished by a purely randomized process through routines approved by the National Institute of Standards and Technology (NIST). Similarly, at the option of the Clerk and after consultation with the Court, a properly programmed electronic data processing system for pure randomized selection may be used to select names from the master wheel for the purpose of summoning persons to serve as grand or petit jurors. Such random selection of names from the source list for inclusion in the master wheel by data computer personnel must insure that each county within the jury division is substantially proportionally represented in the master jury wheel in accordance with 28 U.S.C. § 1863(b)(3). The selection of names from the source list and the master wheel must also insure that the mathematical odds of any single name being picked are substantially equal.

In order to ensure the exercise of proper supervision and management over the automated aspects of jury selection, and in accordance with statutory requirements, the Clerk of the Court shall issue to the operator of the computer facilities written instructions describing the operation which shall be performed by the computer equipment. In addition, the Court shall require the execution of an affidavit by the agency providing the computer service. Such affidavit shall certify under penalty of perjury that the procedures set down by the Court governing the selection process have been fully met in the automated phase of the selection process. This document shall be made a part of the permanent records of the Clerk of Court.

#### H. SELECTING THE NAMES BY MANUAL METHODS

When selection from the merged county voter registration and driver's license lists is made manually, the choosing of names shall be by counting names down the randomly generated Pool Sequence Report in a numerical sequence.

#### I. SELECTING THE NAMES BY MACHINE METHODS

The Judges of this Court find that electronic data processing methods can be advantageously used for selecting and copying names from the merged voter registration lists and driver's license lists of those counties that maintain these lists in electronic format.

Therefore, a properly programmed electronic data processing system or a combination system employing both manual and electronic machine methods may, at the Clerk's option and after consultation with the Chief Judge, be used to select master wheel names from the merged voter lists and driver's license lists of any or all counties in the District, provided that the required proportions of names for each county are maintained.

Similarly, the Judges of this Court find that an electronic data processing system or a combination electronic and manual system may be used to select names from the master wheel of persons to be summoned to serve as grand or petit jurors, and for the recording of names of prospective jurors on any papers and records needed by the Court to administer the selection and payment of jurors.

If the Court elects to use electronic machine methods in connection with any or all of the Districts' voter records, driver's license records, or master jury wheels, the name selection system shall be planned and programmed according to the purely random method described above.

Upon Court order, the Clerk shall randomly select from the master jury wheel, by machine or manual methods, the designated number of persons to be qualified and summoned for a specific date. The Clerk shall have prepared an alphabetical list of all persons qualified and summoned. . Jurors summoned may be excused upon written request to the Clerk of Court, who is authorized to grant requests for postponement on the grounds of undue hardship or extreme inconvenience. The Clerk of Court or his designee shall approve or disapprove such request subject to 28 U.S.C. §1869(j).

J. MASTER JURY WHEEL

The Clerk shall maintain a master jury wheel or a device similar in purpose and function for each division within the District. The names and addresses of all persons randomly selected from the source lists shall be placed in the master wheel for that division and installed in the Jury Management System (JMS). The physical form of record on which names for the master wheel are kept is CD-ROM. Pursuant to Section 1863(b)(4) of the Act, the minimum number of names to be placed in the master jury wheel shall be at least one-half of one percent of the total number of names on the source lists within the division or as may be prescribed by the Clerk under the direction of the Chief Judge.

These names may be selected on a random basis for administrative convenience. The Judges of this Court may order additional names to be placed in the master jury wheel for said divisions from time to time as necessary and in accordance with the formula described above.

The master jury wheels currently in full force and effect shall be emptied and refilled every two (2) years.

K. DRAWING OF NAMES FROM THE MASTER JURY WHEEL:  
ONE-STEP SUMMONING AND JURY QUALIFICATION

Pursuant to 28 U.S.C. § 1878, the Court is using a one-step procedure to qualify and summons jurors. The Clerk, at periodic intervals, shall draw at random from the master jury wheel the names of as many persons as may be required to qualify and summon a sufficient number of jurors for the term of service in each division. The number of names to be drawn shall be determined by the Clerk based upon anticipated juror demands by the Court plus a margin of

extra names sufficient to compensate for the estimated number of individuals who become unavailable or ineligible to serve as jurors.

The Clerk shall have prepared, by manual or computer means, alphabetized lists of the names drawn. These lists shall not be exhibited to any person except as provided herein and in Section 1867 and 1868 of the Act, as amended. The Clerk shall prepare and have mailed to every person whose name is so drawn, a summons and juror qualification form, accompanied by instructions to execute and return the questionnaire duly signed and sworn by mail or electronically through the Court's Internet website at [www.id.uscourts.gov](http://www.id.uscourts.gov) to the Clerk of Court within ten (10) days. The Court shall utilize the juror qualifications forms prescribed by the Administrative Office of the United States Courts and approved by the Judicial Conference of the United States for this purpose.

Each juror qualification questionnaire will require completion by the individual to whom the questionnaire is addressed. Should the addressee be unable to complete the questionnaire, another individual may do so, indicating the need and reason(s) therefore. In cases where there appears to be an omission, ambiguity or error in a completed juror qualification questionnaire, the questionnaire will be returned promptly to the individual with instructions that corrections or additional information is to be completed or returned to the Court within ten (10) days of the receipt of the request.

The Court will follow up on non-respondents who fail to return their questionnaires within ten (10) days from the receipt of the questionnaire. A "non-respond" letter warning non-respondents of their obligation to complete the questionnaire or face potential penalties will be mailed to all non-respondents during the middle of each month.

The remaining sections of Section 1864 of the Act, as amended, in regard to the penalties provided for therein in relation to any person failing to appear and any person who willfully misrepresents a material fact on a juror qualification form, are by reference made a part hereof as though the same were set forth at length herein.

#### L. EXCUSES ON INDIVIDUAL REQUEST

The Judges of this Court hereby finds that jury service will entail undue hardship, or extreme inconvenience to the members of the following groups and that an excuse of members of those groups upon request would not be inconsistent with the provisions of 28 U.S.C. §§ 1861 and 1862:

1. Persons over 70 years of age.
2. Persons who have served as a grand or petit juror in the State or Federal Court within the past two (2) years.
3. Volunteer safety personnel, upon individual request, shall be excused from jury service. "Voluntary safety personnel" mean individuals serving a

public agency (as defined in section 1203(6) of Title I of the Omnibus Crime Control and Safe Streets Act of 1968) in an official capacity, without compensation, as firefighters or members of a rescue squad or ambulance crew.

The Court, or the Clerk under the supervision of the Court, or Designee(s), may excuse or postpone a person summoned for jury service upon a showing of undue hardship. A record shall be kept, and produced if ordered, of the reason and basis for the excuse or postponement.

M. EXEMPTION FROM JURY SERVICE

The Court hereby finds that exemptions of the following groups of persons of occupational classes is in the public interest and would not be inconsistent with the Act, as amended, and accordingly such groups are exempted from jury service and therefore, are barred from jury service and may not serve even if they indicate a desire to do so.

1. Members in active service in the Armed Forces.
2. Members of the fire or police departments of any State, the District of Columbia, any territory or possession of the United States, or any subdivision of a State, the District of Columbia, or such territory or possession.
3. "Public officers" - i.e., persons either elected to public office or directly appointed by a person elected to public office - in the executive, legislative, or judicial branches of the Government of the United States, or any State, the District of Columbia, any territory or possession of the United States, or any subdivision of a State, the District of Columbia, or such territory or possession, who are actively engaged in the performance of official duties.

N. DETERMINATION OF DISQUALIFICATIONS

In accordance with the provisions of 28 U.S.C. 1865(b), any citizen of the United States who has reached the age of 18 years shall be deemed qualified to serve on grand or petit juries unless he or she:

1. Is not a citizen of the United States eighteen years old who has resided for a period of one year within the judicial district;
2. Is unable to read, write, and understand the English language with a degree of proficiency sufficient to satisfactorily fill out the juror qualification form;
3. Is unable to speak the English language;

4. Is incapable, by reason of mental or physical infirmity, of rendering satisfactory jury service;
5. Has a charge pending against him or her for the commission of, or has been convicted in a State or Federal Court of record of a crime punishable by imprisonment for more than one year and his or her civil rights have not been restored.

O. RELEASE OF JUROR INFORMATION

The contents of records or papers used by the Clerk or Deputy Clerk in connection with the jury selection process, including juror qualification questionnaires, shall not be disclosed to anyone other than Court personnel except as provided in 28 U.S.C. § 1867(f) and in this Plan.

Names and personal information concerning petit and grand jurors shall not be disclosed to attorneys, parties, the public or the media, except as provided herein.

Names and personal information concerning persons who have been entered in the jury wheel shall not be disclosed except upon order of the Court.

Names and personal information concerning prospective and sitting petit jurors shall not be disclosed to the public or media outside open court, except upon order of the Court. A request for disclosure of petit juror names and personal information to the public or media must be made to the presiding judge.

The names of grand jurors drawn from the master jury wheel will not be disclosed to anyone other than the United States Attorney, except from order of the court.

Names and biographical information (excluding street address, home and work telephone numbers and Social Security numbers) of persons impaneled for a trial drawn from the qualified jury wheel may be provided to counsel no sooner than (7) days in advance unless otherwise ordered by the Judge. The Court may order that the names be made public at an earlier date. The Court may order juror names and personal information to be kept confidential where the interests of justice so require.

The Court may order juror names and personal information to be kept confidential where the interests of justice so require.

P. GRAND JURY PANEL

It is the policy of the United States that all criminal defendants in this District shall have the right to indictment by a grand jury selected at random from a fair cross section of the persons within this District. The Court finds that the composition of persons summonsed to serve on any Grand Jury convened in any of the three divisions identified in this jury plan also represents a fair cross section of the entire population of the District. Therefore, Grand Jury sessions can be held at any of the four locations designated in 28 U.S.C. § 92 where the Court convenes: Northern Division, Coeur d'Alene and Moscow; Southern Division, Boise; and Eastern Division, Pocatello.

While the Court is merging licensed drivers and registered voters for juror selection, for purposes of meeting the proportional representation from each county required by 28 U.S.C. § 1863(b)(3), the number of registered voters will be used as provided by the Secretary of State. Grand Juries may be convened by drawing grand jurors solely from the master wheel. In which event the pro-rata share for such a Grand Jury shall be determined as follows: (1) For a Grand Jury convened from all three divisions, the pro-rata share shall be based on the total number of persons on the voter registration lists of each division as compared to the total number of persons on the voter registration lists of all divisions as provided by the Secretary of State. (2) For a Grand Jury drawn from two of the divisions, the pro-rata share shall be based on the total number of persons on the voter registration lists of each division as compared to the total number of persons on the voter registration lists of the two divisions as provided by the Secretary of State.

For example, if a Grand Jury was to be convened by drawing names from the Southern and Eastern Division master wheels, and if the Southern Division would represent seventy-five percent (75%) of the merged registered voter and drivers list when compared to the total number of merged registered voters and drivers for these two divisions, then seventy-five percent (75%) of those summoned must come from the master wheel of the Southern Division.

The Court may direct that alternate jurors may be designated at the time a grand jury is selected. Alternate Jurors in the order in which they were designated may thereafter be impaneled to replace excused jurors. Alternate jurors shall be drawn in the same manner and shall have the same qualifications as the regular jurors and if impaneled shall be subject to the same challenges, shall take the same oath and shall have the same functions, powers, facilities and privileges as the regular grand jurors.

The Clerk shall prepare a separate list of names of persons assigned to each grand jury. All other provisions of Section 1866 of the Act, as amended, in regard to the selection and summoning of jury panels, are incorporated by reference.

Pursuant to 28 U.S.C. § 1871(c)(5), the Court delegates to the Clerk or the designated deputy clerks performing jury functions to determine if weather conditions warrant air travel by grand jurors to any location where a Grand Jury is to be convened.

Q. SELECTION PROCEDURES

A public notice concerning the Jury Selection Process and Procedures is located in the Clerk's Office and on the Court's website:

[http://www.id.uscourts.gov/docs/Public\\_Notice\\_RandomDraw\\_Jurors.pdf](http://www.id.uscourts.gov/docs/Public_Notice_RandomDraw_Jurors.pdf)

R. IMPANELING JURORS

The panel of jurors summoned as petit jurors shall report in the jury assembly room of their division. Names of persons summoned and not excused by the Court may be inserted into a total jury panel wheel from which the jury pool for a given day or week may be selected. The Clerk shall prepare, for the use of Court and counsel, a separate list of names of persons assigned to each petit jury.

S. UNANTICIPATED SHORTAGE OF JURORS

When there is an unanticipated shortage of available petit or grand jurors drawn from the qualified jury wheel, the Court may require the United States Marshal to summon a sufficient number of jurors selected at random from the voter registration lists, or other lists specified in the Plan, in a manner ordered by the Court consistent with Sections 1861 and 1862 of the Act, as amended.

T. OBLIGATION TO SERVE

When summoned to serve as a juror, every person shall be obliged to serve unless determined to be disqualified, exempt, excluded, or entitled to be excused.

Any person summoned pursuant to subsection (a) of 28 U.S.C. §1864 who fails to appear as directed may be ordered by the presiding judge of the district court forthwith to appear and show cause for his failure to comply with the summons. Any person who fails to appear pursuant to such order or who fails to show good cause for noncompliance with the summons may be fined not more than \$1,000, imprisoned not more than three days, ordered to perform community service, or any combination thereof. Any person who willfully misrepresents a material fact on a juror qualification form for the purpose of avoiding or securing service as a juror may be fined not more than \$1,000, imprisoned not more than three days, ordered to perform community service, or any combination thereof. Furthermore, pursuant to 28 U.S.C. §1866(g) any person summoned for jury service who fails to appear as directed may be ordered by the district court to appear forthwith and show cause for failure to comply with the summons. Any person who fails to show good cause for noncompliance with a summons may be fined not more than \$1,000, imprisoned not more than three days, ordered to perform community service, or any combination thereof.

U. TERM OF SERVICE

Unless otherwise ordered by the Chief Judge, petit jurors in all divisions shall serve for a one (1) month term of service, one appearance, or one (1) trial, regardless of length. The grand jurors shall serve for a term not in excess of twelve (12) months, unless otherwise extended by the court. No person shall be required to serve upon more than one grand jury or to serve as both a grand and petit juror.

Grand and petit jurors shall initially be summoned in the manner provided in Section 1866(c) of Title 28 U.S.C. for service until the next general panel is drawn or until relieved by order of the Court. As needed thereafter, the Clerk shall, unless otherwise directed by the Court, notify jurors of the time, date, and place to report by mail, in person, by telephone, through the United States Marshal, or by whatever method is appropriate under the particular circumstances.

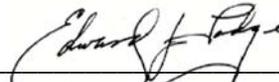
V. DURATION OF PLAN AND EFFECTIVE DATE

This Plan shall remain in full force and effect until approval of one or more modifications by the reviewing panel of the 9th Circuit Court of Appeals. Modifications may be initiated by the Court and submitted to the reviewing panel or by such rules and regulations as may be adopted by the Judicial Conference of the United States.

This amended Plan shall become effective January 28, 2013.



B. Lynn Winmill  
Chief United States District Judge



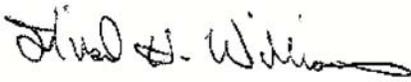
Edward J. Lodge  
United States District Judge



Candy W. Dale  
Chief United States Magistrate Judge



Ronald E. Bush  
United States Magistrate Judge



Mikel H. Williams  
United States Magistrate Judge



Larry M. Boyle  
United States Magistrate Judge